

AMENDED IN ASSEMBLY MARCH 25, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2623

Introduced by Assembly Member Strickland

February 22, 2008

~~An act to amend Section 23051.7 of the Revenue and Taxation Code, relating to taxation. An act to add and repeal Sections 17053.88 and 23688 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2623, as amended, Strickland. ~~Income and corporation taxes: tax computation.~~ *Income tax credits: emergency standby generators.*

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2009, and before January 1, 2014, in an amount equal to 5% of the amount paid or incurred during the taxable year for the purchase and installation of an emergency standby generator at a service station located in this state.

This bill would take effect immediately as a tax levy.

~~Existing income tax laws provide that specified amendments to those laws do not affect the tax treatment of a carryover of a credit, excess contribution loss, or basis computation to which a taxpayer was entitled prior to the amendments.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. It is the intent of this act to provide an incentive*
2 *for a taxpayer that operates a service station to purchase and*
3 *install an emergency standby generator at a service station located*
4 *in this state in order for the service station to be able to continue*
5 *to maintain electrical power to provide services to the public*
6 *during power outages.*

7 *SEC. 2. Section 17053.88 is added to the Revenue and Taxation*
8 *Code, to read:*

9 17053.88. (a) *For each taxable year beginning on or after*
10 *January 1, 2009, and before January 1, 2014, there shall be*
11 *allowed as a credit against the “net tax,” as defined in Section*
12 *17039, an amount equal to 5 percent of the amount paid or*
13 *incurred during the taxable year for the purchase and installation*
14 *of an emergency standby generator at a service station located in*
15 *this state.*

16 (b) *For purposes of this section:*

17 (1) *An “emergency standby generator” means an electrical*
18 *generator whose sole function is to automatically provide electric*
19 *power when electric power from a utility service is interrupted.*

20 (2) *A “service station” means an establishment which offers*
21 *for sale or sells to the public, gasoline or other fuel to power motor*
22 *vehicles.*

23 (c) *If an emergency standby generator for which a credit is*
24 *allowed pursuant to this section is thereafter sold or removed from*
25 *this state within one year from the date the emergency standby*
26 *generator was first placed in service in this state, the amount of*
27 *credit allowed by this section for the purchase and installation of*
28 *that emergency standby generator shall be recaptured by adding*
29 *that credit amount to the net tax of the taxpayer for the taxable*
30 *year in which the emergency standby generator is sold or removed.*

31 (d) *This section shall remain in effect only until December 1,*
32 *2014, and as of that date is repealed.*

33 *SEC. 3. Section 23688 is added to the Revenue and Taxation*
34 *Code, to read:*

35 23688. (a) *For each taxable year beginning on or after*
36 *January 1, 2009, and before January 1, 2014, there shall be*
37 *allowed as a credit against the “tax,” as defined in Section 23036,*
38 *an amount equal to 5 percent of the amount paid or incurred during*

1 *the taxable year for the purchase and installation of an emergency*
2 *standby generator at a service station located in this state.*

3 *(b) For purposes of this section:*

4 *(1) An “emergency standby generator” means an electrical*
5 *generator whose sole function is to automatically provide electric*
6 *power when electric power from a utility service is interrupted.*

7 *(2) A “service station” means an establishment which offers*
8 *for sale or sells to the public, gasoline or other fuel to power motor*
9 *vehicles.*

10 *(c) If an emergency standby generator for which a credit is*
11 *allowed pursuant to this section is thereafter sold or removed from*
12 *this state within one year from the date the emergency standby*
13 *generator was first placed in service in this state, the amount of*
14 *credit allowed by this section for the purchase and installation of*
15 *that emergency standby generator shall be recaptured by adding*
16 *that credit amount to the tax of the taxpayer for the taxable year*
17 *in which the emergency standby generator is sold or removed.*

18 *(d) This section shall remain in effect only until December 1,*
19 *2014, and as of that date is repealed.*

20 *SEC. 4. This act provides for a tax levy within the meaning of*
21 *Article IV of the Constitution and shall go into immediate effect.*

22 ~~SECTION 1. Section 23051.7 of the Revenue and Taxation~~
23 ~~Code is amended to read:~~

24 ~~23051.7. (a) The enactment of the act adding this section to~~
25 ~~the code shall not deprive a taxpayer of a carryover of a credit,~~
26 ~~excess contribution, or loss to which that taxpayer was entitled~~
27 ~~under this part, including all amendments enacted prior to January~~
28 ~~1, 1987.~~

29 ~~(b) The carryover of the credit, excess contribution, or loss shall~~
30 ~~be allowed to be carried forward under the act adding this section~~
31 ~~to the code for the same period of time as the taxpayer would have~~
32 ~~been entitled to carry that item forward under prior law.~~

33 ~~(c) For purposes of applying the provisions of the act adding~~
34 ~~this section to the code, the basis or recomputed basis of an asset~~
35 ~~acquired prior to January 1, 1987, shall be determined under the~~
36 ~~law at the time the asset was acquired and adjustments to basis~~
37 ~~shall be computed as follows:~~

38 ~~(1) Any adjustments to basis for income years beginning prior~~
39 ~~to January 1, 1987, shall be computed under applicable provisions~~

1 of this part, including all amendments enacted prior to January 1,
2 1987; and
3 (2) ~~Any adjustments to basis for taxable years beginning on or~~
4 ~~after January 1, 1987, shall be computed under the applicable~~
5 ~~provisions of the act adding this section to the code.~~
6 (d) ~~For income years beginning on or after January 1, 1987, and~~
7 ~~before January 1, 1988, references in this part to “alternative~~
8 ~~minimum tax” shall be deemed to be references to the “tax on~~
9 ~~preference income.”~~

O